

REMARKS

Claims 1-7, 9, and 10 are pending in the present application.

In the Notice of Non-Compliant Amendment mailed on February 23, 2006, the Office states that the amendment filed on November 21, 2005, still does not comply with the requirements of 37 C.F.R. §1.121. The new criticism is that the amendment has inserted unelected species. Upon review of Claims 1 and 4, it appears that the Examiner is correct in that the second primer (i.e., primer (ii)) is improperly defined and excludes SEQ ID NO: 8. As such, these claims would no longer read upon the elected primer pair of SEQ ID NO: 7 and 8.

In view of the foregoing, Claims 1 and 4 have been amended in view of the disclosure on page 9, line 1 to page 12, line 2 to more specifically and properly define the second primer (i.e., primer (ii)). Claims 1 and 4, and the claims dependent therefrom, now properly read on the elected invention. Noting that Claim 4 reads on non-elected species (SEQ ID NO: 9 and 10), Applicants have changed the designator for Claim 4 to be “withdrawn; currently amended.” Therefore, Applicants submit that the claims submitted herein are in full compliance with 37 C.F.R. §1.121.

Further, Applicants submit that the claimed invention complies with the written description requirement based on the disclosure of page 9, line 1 to page 12, line 2 coupled with the knowledge generally available in the art (i.e., the sequence of chromosome IX of *Saccharomyces cerevisiae*). Moreover, for the reasons set forth in the response filed on July 20, 2005, Applicants submit that the rejections: (a) under 35 U.S.C. §102(b) over Kobayashi et al; (b) under 35 U.S.C. §112, first paragraph (written description); and (c) under 35 U.S.C. §112, second paragraph, should be withdrawn. In addition, for the reasons set forth in the

response filed on July 20, 2005, Applicants submit that the objection under 37 C.F.R. §1.75(c) should be withdrawn.

Finally, Applicants note that in paragraph 12 of the Office Action Summary page accompanying the Office Action mailed January 24, 2005, the Examiner has indicated that only "some" of the certified copies of the priority documents have been received. Applicants note that this is incorrect as the certified copy of JP 2001-034113 was filed on February 7, 2002. The filing of the same can be readily confirmed by inspection of the Patent Office's PAIR system. Applicant note that the Examiner's indication on page 2 of the Office Action mailed January 24, 2005, that the translation of the foreign priority application has not been filed is of no relevance to Applicants' *claim* to priority. The Examiner appears to be simply confusing Applicants' claim to priority (only requires submission of a certified copy of the foreign priority application) and perfecting priority (which requires filing of a certified English translation of the foreign priority application). Therefore, it is requested that the Office acknowledge Applicants' claim by checking the appropriate box in paragraph 12 of the Office Action Summary page.

Applicants submit that the present application is now in condition for allowance. Early notification of such action is earnestly solicited.

Respectfully submitted,

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